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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,539	10/29/2002	Beda Charles Dondi	10583.3801	7666
22235	7590	05/20/2004	EXAMINER	
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

10/065,539

Applicant(s)

DONDI, BEDA CHARLES

Examiner

Edgardo San Martin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Raudman, Jr. (US 3,757,892).

The recitation “to reduce the noise generated by the exhaust from an air turbine” has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

With respect to claim 3, Raudman, Jr. teaches a noise reduction system comprising a first noise reduction configuration that includes a baffle (Fig.2, Item 26) mounted coaxially with a working device exhaust duct and having an inlet opening (Fig.2, Item 24) for receiving air into the baffle from exhaust duct, the baffle having a plurality of uniformly spaced apertures (Fig.2, Items 40 and 41) covering a portion of the baffle and an end plug (Fig.2, Item 65) to prevent air from flowing out the end of the baffle, a second noise reduction configuration (Fig.2, Item 16) that includes a large cylindrical container mounted coaxially over the baffle surrounding the baffle on all sides, the large container including a noise reduction material (Fig.2, Item 56)

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distributed about its interior wall surface, and the large container including an exhaust outlet (Fig.2, Item 61).

With respect to claim 5, Raudman, Jr. teaches wherein the noise reduction material is noise reduction foam fixed to the inside of the container walls (Fig.2; Col.3, Line 8+).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod (US 2,675,088) in view of Inoue et al. (US 4,880,078).

The recitation "to reduce the noise generated by the exhaust from an air turbine" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

With respect to claim 1, McLeod teaches a noise reduction system comprising a first noise reduction configuration that includes a main housing (Fig.1, Item 14), a first baffle (Fig.1, Item 10) and a second baffle (Fig.1, Item 12) including an air outlet, an air stop connecting sleeve (Fig.1, Item 18) coupling the first baffle to the second baffle,

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where a portion of the first baffle at the coupled end includes a plurality of uniformly spaced apertures (Fig.1, Item 16), (in this case in a staggered configuration), and a portion of the second baffle at the coupled end includes a plurality of uniformly spaced apertures (Fig.1, Items 17), (in this case in a staggered configuration), the first baffle and the second baffle mounted coaxially inside the main housing, the first baffle having an inlet mounted to the exhaust of a working device and a plurality of circumferentially disposed apertures, the second baffle having a plurality of circumferentially disposed apertures; and an exhaust air flow into the first baffle that disperses through the first baffle apertures into the main housing and then directed into the second baffle through the second baffle apertures and out of the second baffle outlet into the exhaust housing, the exhaust housing having at least one exhaust port (Fig.1; Col.1, Line 33 – Col.2, Line 43). However, McLeod fails to disclose a second noise reduction configuration that includes an exhaust housing coaxially coupled to the exhaust end of the second baffle and a solid composite noise reduction foam surrounding the inside wall of the main housing and the inside wall of the exhaust housing.

On the other hand, Inoue et al. teach a noise reduction system comprising a first noise reduction configuration (Fig.1, Item 15a) that includes a first exhaust housing (Fig.1, Item 13), a second noise reduction configuration (Fig.1, Item 15b) that includes a second exhaust housing (Fig.1, Item 13) coaxially coupled to the exhaust end of the first noise reduction configuration and a solid composite noise reduction material (Fig.1, Item 17) surrounding the inside walls of the exhaust housings.

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to modify the McLeod noise reduction system by including a second noise reduction system and adding a sound absorbing material in the inner wall of the housings as disclosed by Inoue et al. because it would make the noise reduction system smaller in size, decreasing the limitations of installation, and providing an effective attenuation of exhaust noises in high and low frequencies.

With respect to claim 6, McLeod teaches including the first baffle and the second baffle are cylindrical tubular in construction, and the connecting sleeve includes tubular portions for coupling the first baffle to the second baffle (Fig.1).

With respect to claim 7, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex Parte Masham*, 2 USPQ F.2d 1647 (1987).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flugger (US 4,550,799) in view of Inoue et al. (US 4,880,078), and further in view of Steger et al. (US 5,765,257).

The recitation "for use as a vacuum generating device that includes an air turbine to reduce the noise generated by the exhaust from the air turbine" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Flugger teaches a noise reduction system comprising a main housing (Fig.1, Item 21), a first noise reduction (Fig.1, Item 28) configuration that includes a baffle having a first portion and a second portion, a wall (Fig.1, Item 29) separating the first portion from the second portion, a plurality of uniformly spaced apertures (Fig.1, Item 38) extending away from the wall partially along the first portion and the second portion, a solid composite noise reduction material (Fig.1, Item 24) surrounding the inside wall of the main housing, the baffle mounted inside the main housing, the baffle having an inlet mounted to the exhaust of a working device, an exhaust air flow into the baffle first portion through the inlet, out of the apertures on the first portion side of the wall and into the apertures the second portion side of the wall (Fig.1; Col.2, Line 54 – Col.3, Line 42). However, Flugger fails to teach a second noise reduction configuration that includes an exhaust housing coupled to the exhaust end of the baffle, and the airflow turning 180 degrees in the exhaust housing.

On the other hand, Inoue et al. teach a noise reduction system comprising multiple noise reduction devices (Fig.1, Items 15a – 15c) connected in series.

Steger et al. teach a noise reduction system comprising an exhaust housing coupled to the exhaust end of a noise producing device, and the airflow turning 180 degrees in the exhaust housing (Fig.5; Col.2, Lines 1 – 16).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to connect the Steger et al. noise reduction system to the Flugger design, as a second noise reduction, as described by Inoue et al. because the multiple noise reduction systems configuration would improve the attenuation of exhaust

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noises in high and low frequencies without producing a back pressure and without detracting from the performance and efficiency of the working device.

### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. The attached hereto PTO Form 892 lists prior art made of record and not relied upon, the Examiner considered it pertinent to applicant's disclosure.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.




***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edgardo San Martin  
Patent Examiner  
Art Unit 2837  
Class 181  
May 3, 2004

  
SHIH-YUNG HSIEH  
PRIMARY EXAMINER